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July 31, 2009

Tom Danielson
Bureau of Land & Water Control
Department of Environmental Protection
17 State House Station
Augusta, ME
04333-0017

RE: Ch 583-Draft Nutrient Criteria for Fresh Surface Waters

Dear Mr. Danielson:

Maine Pulp and Paper Association (MPPA) is pleased to provide comments on the Department's proposed Nutrient Criteria rules. MPPA is a trade association located in Augusta that represents Maine's pulp and paper industry. The Association's mission is to ensure that the long-term viability and competitiveness of the industry is achieved in a global economy. MPPA membership includes 10 companies, representing 13 pulp and paper mills, and 20 Associate Members who provide products and services, or who share common business interests. All of our member mills discharge treated process waters to Maine's rivers and would be directly impacted by this rule.

MPPA incorporates comments provided by Dr. Douglas McLaughlin on behalf of the National Council for Air and Stream Improvement (NCASI). See Attached pdf document. In addition to those recommendations provided by NCASI, MPPA fully supports DEP's proposed approach to use a matrix decision framework for determining attainment of the nutrient criteria. As noted in Draft DEP Description Document (DEPLW-0974, April 2009) nutrient criteria development is a complex subject and stream environments, in particular, are subject to a variety of physical conditions that alter whether and how nutrients impact plant growth and stream ecology. This is why it's important to link nutrient concentrations to environmental response indicators as outlined in Section 3 and Figure 1 of the draft rule.

MPPA does have concerns with the proposed TP criteria for Class C surface waters. According to the April 2009 Description Document, DEP adjusted the 75 percentile TP concentration (52 ppb) downward to 37 ppb based on results of a Conditional Probability Analysis. NCASI has provided more detailed discussion on the conditions and limitations for using this statistical approach. However, if US EPA rejects DEP's proposed weight-of-evidence approach, more river segments may be classified as

impaired. As we noted at the public hearing, industry can ill afford to direct scarce resources to reduce phosphorus loading where such discharges have no causal link to environmental responses or recreational use impairment.

As a final matter, DEP should clarify how the proposed Chl-a criteria for impounded waters will be determined. As I recall, the TMDL modeling on the Androscoggin and Penobscot Rivers assumed a value of 10 ppb as a threshold for algae blooms in impounded waters. I don't believe the modeling included a separate "spatial mean" and "single value" measurement as a trigger threshold. Again, NCASI has provided an extensive critique of DEP's proposed Chl-a criteria for impounded surface waters.

In summary, MPPA supports the proposed matrix decision framework that links ambient phosphorus concentrations and various environmental response indicators, but we do have concerns with statistical procedures used to derive the Class C total phosphorus values and the overly stringent Chl a criteria for Class B/C impoundments.

Sincerely,



Michael Barden